

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

TYSON J. HORNER,

Defendant.

CASE NO: 2:22-CR-0060-TOR

ORDER ACCEPTING GUILTY PLEA  
AND SETTING SENTENCING  
SCHEDULE

On February 1, 2023, Tyson J. Horner appeared before the Court and entered a plea of guilty to the Indictment filed on May 17, 2022, charging him with Possession with Intent to Distribute 400 Grams of Fentanyl, in violation of 21 U.S.C. § 841. The Defendant was represented by John B. McEntire, IV. Patrick J. Cashman appeared on behalf of the government.

The Court finds that Defendant is fully competent and capable of entering an informed plea, that the Defendant is aware of the nature of the charges and consequences of the plea and the plea of guilty is knowing, and voluntary, is not induced by fear, coercion, or ignorance and is supported by an independent basis in

ORDER ACCEPTING GUILTY PLEA AND SETTING SENTENCING  
SCHEDULE ~ 1

1 fact establishing each of the essential elements of the crime. Therefore, the  
2 Defendant's plea of guilty is accepted.

3 **ACCORDINGLY, IT IS HEREBY ORDERED:**

4 1. A sentencing hearing is set for **May 3, 2023, at 9:00 a.m.**, in Spokane  
5 Courtroom 902. Absent truly exigent circumstances, the Court will not consider a  
6 request for a continuance of sentencing unless: (1) the request is made by written  
7 motion, (2) in accordance with LCivR 7, and (3) the motion and supporting  
8 declaration are filed at least seven (7) days before the scheduled sentencing  
9 hearing.

10 2. The Defendant shall remain released to pretrial supervision pursuant to  
11 the conditions of release previously imposed in this matter. ECF No. 33. **If a**  
12 **sentence of incarceration is imposed, the Defendant shall be taken into**  
13 **custody at the time of sentencing.**

14 3. The United States Probation Office shall prepare a Presentence  
15 Investigation Report (PSIR) pursuant to Fed. R. Crim. P. 32(c).

16 4. Not later than **March 22, 2023**, the probation officer shall disclose the  
17 Presentence Investigation Report to the Defendant, counsel for Defendant, and the  
18 Government. Disclosure of the Presentence Investigation Report shall be subject  
19 to the limitations imposed by Rule 32 of the Federal Rules of Criminal Procedure.

1           5. Not later than **April 5, 2023**, counsel shall communicate in writing to the  
2 probation office (and opposing counsel) any objections they may have as to legal  
3 and factual errors or omissions; sentencing classifications; sentencing guideline  
4 ranges; and policy statements contained in or omitted from the report. If an  
5 objection is filed, the probation officer shall conduct such additional investigation  
6 as is necessary to assess the merits of the objection.

7           6. The probation officer shall submit the final Presentence Investigation  
8 Report to the Court by **April 19, 2023**. The report shall be accompanied by an  
9 addendum setting forth any objections counsel may have made, including those  
10 that have not been resolved, together with the officer's comments and  
11 recommendations thereon.

12           7. Not later than **April 19, 2023**, counsel shall file and serve all motions  
13 and memoranda pertaining to Defendant's sentence, including departures and  
14 variances, and sentencing recommendations. **FAILURE TO FILE AND SERVE**  
15 **SENTENCING MATERIAL, TO INCLUDE MOTIONS OR MEMORANDA**  
16 **FOR UPWARD OR DOWNWARD DEPARTURE AND VARIANCES, BY**  
17 **THIS DATE WILL BE DEEMED A WAIVER OF THE RIGHT TO DO SO.**

18           8. Not later than **April 26, 2023**, the opposing party shall file and serve its  
19 response limited to no more than seven (7) pages.  
20

1 9. If Defendant intends to qualify for the safety valve, the parties must  
2 schedule a meeting to conduct a safety valve interview to determine if the  
3 Defendant has met the requirements of U.S.S.G. § 5C1.2(a)(5) **no later than April**  
4 **19, 2023.**

5 10. If either party intends to call witnesses or proffer exhibits at sentencing,  
6 witness and exhibit lists must be exchanged by the parties and provided to the  
7 Court no later **April 26, 2023.**

8 11. All pending motions are **DENIED as moot** and all pending hearing and  
9 trial dates are stricken from the Court's calendar.

10 12. The District Court Executive is authorized to accept Defendant's \$100  
11 payment which shall be applied to the Special Penalty Assessment.

12 **IT IS SO ORDERED.** The District Court Clerk is hereby directed to enter  
13 this Order and provide copies to counsel, the United States Probation Office, and  
14 the United States Marshal's Service.

15 DATED February 1, 2023.



*Thomas O. Rice*  
THOMAS O. RICE  
United States District Judge